

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 15364 of 2006

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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JOGSINGH RAWATSINGH RAJPUT - Petitioner(s)
Versus
BANK OF BARODA - Respondent(s)

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Appearance :

MR TR MISHRA for Petitioner(s) : 1,
 NOTICE SERVED for Respondent(s) : 1,
 MR DARSHAN M PARIKH for Respondent(s) : 1,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 08/09/2006

ORAL JUDGMENT

RULE returnable today. Mr.Parikh waives service of rule.

With the consent of the learned advocates, the matter is heard and disposed of today.

The petitioner is a retired employee of the respondent – Bank of Baroda (hereinafter referred to as, “**the Bank**”). At the relevant time, the petitioner was serving as a Clerk in Kali Branch, Ahmedabad of the Bank. For the acts of alleged misconduct a disciplinary proceeding was initiated against the petitioner. By order dated 29th October, 2003 he was ordered to be compulsorily retired from service. The said order of compulsory retirement has become final. It is now the claim of the petitioner that in view of his retirement from service he is entitled to pension. Whereas the Bank has disputed his claim. According to the Bank, the petitioner having been retired from service as a penal measure, he is not entitled to pension.

Mr.Mishra has relied upon the judgment of this Court in the matter of **Kanaiyalal Kantilal Brahmhatt v/s. Bank of Baroda** (Special Civil Application No.7671 of 2005 decided on 1st September, 2006; Coram: Akil Kureshi, J.). He has submitted that this Court has interpreted the relevant regulations of the Bank and has held that the delinquent servants who are

compulsorily retired also are entitled to pension.

Mr.Parikh has submitted that the employees of the Bank are entitled to pension under the Bank of Baroda (Employees') Pension Regulations, 1995. Regulation 33 of the said Regulations confers discretion upon the Bank whether or not to allow pension in case of compulsory retirement. He has submitted that this Court has, in the above matter of Kanaiyalal Kantilal Brahmhatt, committed error in interpreting the aforesaid Regulation 33. The matter, therefore, requires to be referred to the Larger Bench.

I am unable to agree with Mr.Parikh. Considering Regulation 33 read with Regulation 22 of the said Regulations, this Court has held that the only discretion left under Regulation 33 is whether to grant 100 per cent pension or to reduce it to not less than $2/3^{\text{rd}}$ of the full pension admissible to the delinquent servant. I am in agreement with the learned Judge. No case for reference to the Larger

Bench has been made out.

In above view of the matter, the petition is allowed. It is declared that the petitioner is, inspite of his compulsory retirement from service, entitled to receive pension. It is directed that the Bank shall, within ten weeks from today, consider the case of the petitioner for grant of full pension or to exercise discretionary power under the aforesaid Regulation 33. The arrears of pension shall be paid on or before 30th November, 2006. Rule is made absolute in the above terms. The parties shall bear their own cost.

(Ms. R.M.Doshit, J.)

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